

**Subject:** Fwd: Proposed Amended of MRPC 1.5

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The proposed addition to subpart (c) does not impose an onerous burden on attorneys, and it requires little effort to tweak a contingency fee agreement to add this additional information. So the proposed addition to subpart (c), is hardly objectionable. However, one has to wonder how clients benefit from knowing the particulars of their attorneys' fee-splitting agreements.

On the other hand, the proposed addition to subpart (e) and the proposed new subpart (f) are highly suspect and appear to be wholly arbitrary. Let's consider subpart (e) first. The proposed addition to subpart (e) requires attorneys to obtain a client's approval of "the amount or percentage of fees to be divided or shared among the lawyers[.]" Why? The typical client has little or no knowledge of the law, much less the economics of the practice of law. In short, the typical client is simply not knowledgeable enough to either approve or disapprove of attorneys' fee-splitting agreements. So it makes no sense to require lawyers to have their clients "screen" their fee-splitting agreements.

Proposed subpart (f) seems unworkable on its face.

For starters, subpart (f) provides attorneys with a mechanism to circumvent subpart (e). That is, after securing the client's approval under subpart (e), a referring attorney can seek to improve his lot by having a court approve a higher referral fee under subpart (f). Do we really want to burden our courts with even more attorney fee disputes? Aren't the numerous disputes arising out of MCR 2.403 already too much? Do we want judges to have the power to "veto" clients' approval under subpart (e). It all seems quite silly.

Also, what is the rationale for a maximum referral fee of 25%? In my brief survey of other states' versions of Rule 1.5, I did not find any other state with a Rule 1.5 with provisions similar to those proposed here. Isn't that suggestive that these proposed amendments are unnecessary? If our sister states don't require this sort of language in their versions of Rule 1.5, why should we? And it's worth noting that the ABA's model Rule 1.5 **does not** contain a cap on attorney referral fees.

In sum, the proposed addition to subpart (e) and the proposed new subpart (f) are unnecessary and unworkable.

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